

EXHIBIT A



May 7, 2019

Sent via Facsimile and U.S. Certified Mail/Return Receipt

Internal Revenue Service
Central Processing Unit
Stop 211
PO Box 621506
Atlanta, GA 30362-3006
Fax: 877-807-9215

Re: Expedited Request for Information under Freedom of Information Act (FOIA)

Dear FOIA Officer:

The Southern Poverty Law Center (SPLC) and the National Immigration Law Center (NILC) (collectively "Requesters") make this request for information under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 *et seq.*, for records related to the execution of a search warrant, search, and worksite enforcement operation conducted on April 5, 2018 by the Internal Revenue Service (IRS) and other federal and state law enforcement agencies at Southeastern Provision LLC located at 1617 Helton Road, Bean Station, Tennessee.

Requesters seek all records¹ relating to the law enforcement activity conducted at Southeastern Provision LLC in Bean Station, Tennessee on April 5, 2018, including but not limited to the following:

1. All records related to the planning and carrying out of the worksite operation conducted at Southeastern Provision LLC in Bean Station, Tennessee on April 5, 2018, including but not limited to:
 - a. Enforcement Action Review Form (EARF);
 - b. Risk Assessment Guide;
 - c. Search Warrant Checklist;
 - d. Search Warrant Plan;

¹ The term "records" as used in this request includes, but is not limited to all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, videotapes, audio tapes, faxes, files, e-mails, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, technical manuals, training manuals, or studies.

2. All communications between the IRS and any Tennessee state or local governmental agency or Tennessee state or local law enforcement agencies, including but not limited to the Tennessee Highway Patrol and the Morristown Police Department, related to the worksite enforcement operation conducted at Southeastern Provision LLC;
3. All communications between the IRS and the Department of Homeland Security or its component agencies (including Immigration and Customs Enforcement, Homeland Security Investigations, and Customs and Border Protection) related to the worksite enforcement operation conducted at Southeastern Provision LLC;
4. All communications, not concerning tax returns or tax return information, between the IRS and individuals associated with Southeastern Provision LLC, including managers, supervisors, employees and/or agents;
5. Copies of all photographs taken during the worksite enforcement operation conducted at Southeastern Provision LLC;
6. Copies of all administrative and/or criminal warrants issued and served on an agent of Southeastern Provision LLC related to the worksite enforcement operation, including but not limited to, *In re the Search of: 1617 Helton Road, Bean Station, TN 37708* (E.D. Tenn. Apr. 2, 2018);
7. The identities of all IRS personnel involved in the planning of and/or physically present during the worksite enforcement operation at Southeastern Provision LLC, including, but not limited to:
 - a. Full name;
 - b. Rank or official title; and
 - c. Office location;
8. All FOIA Search Staffing Sheets related to the instant FOIA request.

Please note that Requesters do not seek tax returns or tax return information, as defined under 26 U.S.C. § 6103, of any third party, including those of Mr. James Brantley, owner of the Southeastern Provision plant. Although Requesters do not anticipate the requested records to contain any information exempted under Section 6103, should the records contain tax return information, such information may be redacted. However, we expect those portions of the records not subject to redaction to be produced.

Fee Waiver Request

Requesters respectfully request a waiver of all costs associated with a response to this FOIA pursuant to the public interest/benefit fee waiver available under 5 U.S.C. § 552(a)(4)(A)(iii) (“Documents shall be furnished without any charge ... if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the

Requesters.”). The public interest/benefit fee waiver provisions of the FOIA are to be “liberally construed” and are “consistently associated with requests from journalists, scholars, and non-profit interest groups who it was intended to benefit.” *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be ‘liberally construed’ in favor of fee waivers for noncommercial Requesters.”) (citation omitted); *see also Carney v. U.S. Dept. of Justice*, 19 F.3d 807, 814 (2d Cir. 1994) (reversing a fee waiver denial that was based on an “unduly restrictive construction [of] the public interest fee waiver provision”).

Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government regarding high-visibility worksite enforcement actions. Already this worksite enforcement action has garnered national attention. *See, e.g.*, “ICE Raids Meatpacking Plant in Rural Tennessee; 97 Immigrants Arrested,” Washington Post (Apr. 6, 2018), https://www.washingtonpost.com/local/immigration/ice-raids-meatpacking-plant-in-rural-tennessee-more-than-95-immigrants-arrested/2018/04/06/4955a79a-39a6-11e8-8fd2-49fe3c675a89_story.html?utm_term=.35870ae9c91a.

The SPLC provides free legal representation to immigrants who have suffered violations of their civil rights. The SPLC also engages in disseminating information, regularly participating in public forums regarding civil rights and immigration. The SPLC gathers information through research and FOIA requests on emerging and on-going civil rights and immigration issues. That information is used to create and publish unique reports and public education materials, which are published in print and/or on the internet at www.splcenter.org. The information SPLC seeks out and the publications it creates are to educate and inform the public of policies, events, and news that affects their civil rights. The intended audience is elected officials and policy makers, the general public, interest groups, and various stakeholders nationwide. Furthermore, the issue of workplace immigration enforcement is “in the public interest” and has generated significant attention from advocates, policy makers, and the general public, as indicated by extensive media coverage of the issue. Your response to this request will be used to contribute to that discussion.

NILC is a nonprofit national legal advocacy organization that engages in policy analysis, advocacy, education, and litigation to promote and advance the rights of low-income immigrants and their families. NILC serves as an important resource to a broad range of immigrant advocacy groups, community organizations, legal service organizations, and the general public. As a part of its work, NILC disseminates information to the public through electronic newsletters, news alerts, issue briefs, trainings, and other educational and informational materials. In addition, NILC disseminates information to individuals, tax-exempt organizations, not-for-profit groups, and members through its website (<http://www.nilc.org>). NILC regularly disseminates information obtained through FOIAs on issues affecting low-income immigrants.² NILC’s website receives approximately 4,100 visits per day, and many visitors actively download NILC’s reports, brochures, and fact sheets. NILC’s email listserv has about 70,000 subscribers. NILC’s Twitter account has over 74,200 followers. Moreover, the National Immigration Law Center is routinely granted fee waivers by government agencies. Some of the fee waivers granted include FOIA Requests 2019-ICFO-24765; 2018-HQFO-01161, 2017-ICFO-28442, 2017-ICFO-

² See, e.g., <http://www.nilc.org/issues/daca/daca-foia-documents/>

40212, and 2016-HQFO-00400.

Requesters have no commercial interest in these records, are requesting them for educational and advocacy-related purposes and will disseminate any information they obtain to the public free of charge. *See* 6 C.F.R. § 5.11(k). Any information related to the worksite enforcement operation at Southeastern Provisions contributes significantly to public understanding and may help dispel some of the fear and panic currently felt in immigrant communities across the countries because of this enforcement operation. The information sought in this FOIA request is of great value to the public and cannot otherwise be obtained through public searches.

Should a fee waiver not be granted, we request a limitation of processing fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II). (“[F]ees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by ... a representative of the news media.”). *See* also 6 C.F.R. § 5.11(d); 28 C.F.R. § 16.10(d). If the fee waiver request is denied, while reserving our right to appeal the denial, the Requesters agree to pay fees up to \$50. If fees are estimated to exceed this limit, please inform us to obtain consent to incur additional fees.

Expedited Processing

Requesters also request expedited processing because there is “an urgency to inform the public about an actual or alleged federal government activity” by an organization “primarily engaged in disseminating information.” 5 U.S.C. § 552(a)(6)(E)(v)(II). This request implicates a matter of urgent public concern: namely, government policies and practices related to immigration raids, which often impact workers with employment authorization and citizens as well.

In addition, expedited processing is warranted because the information sought is needed to prevent “the loss of substantial due process rights.” 28 C.F.R. § 16.5(d)(1)(iii). On February 21, 2019, Requesters filed a class-action lawsuit in the U.S. District Court for the Eastern District of Tennessee on behalf of the workers alleging constitutional violations committed by federal officers in the course of the April 5, 2018 worksite enforcement operation. *See Zelaya v. Miles*, 3:19-cv-00062 (E.D. Tenn. Filed Feb. 21, 2019). These violations include unlawful arrest, race discrimination, and excessive force. *Id.* While the Requesters have been able to identify some of the officers present during the raid, Requesters seek the information in their request to ascertain the identities of other officers who violated, or witnessed violations of, the rights of the workers present during the raid. Given the gravity of the alleged constitutional violations, requests for information regarding the manner in which the raid was conducted and who was involved require an immediate response. If a response is not given immediately, those Plaintiffs litigation the violations of their constitutional rights risk losing their claims. As such, expedited processing is warranted to prevent the loss of substantial due process rights.

Expedited processing is also warranted because the information sought relates to “a matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affects public confidence.” 28 C.F.R. § 16.5(d)(1)(iv). This request relates to possible violations of IRS’s internal procedures and possible violations of statutory and Constitutional rights. The exceptional media interest in the conduct of IRS’ involvement in this

worksite enforcement operation is demonstrated by the widespread news coverage at both the local and national level.³

Lastly, on December 17, 2018, in a request similar to the instant request, NILC sought the identities of all Immigration and Customs Enforcement, Homeland Security Investigations, or other Department of Homeland Security personnel physically present during the same worksite enforcement operation referenced here. See ICE FOIA Request No. 2019-ICFO-32230. NILC sought and was granted expedited processing of that request. See ICE FOIA Response Letter attached hereto as **Exhibit A**. Given the similarity between the ICE FOIA request and this request, expedited processing is also due here.⁴

Should you decide that expedited processing is not warranted, Requesters reserve their right to appeal that decision and expect a response within the twenty-day time limit set forth under 5 U.S.C. § 552(a)(6)(A)(ii).

Conclusion

The requested records are not exempt from disclosure under the FOIA. We expect that all records will be provided in complete form. For any records produced in redacted form, we request that only necessary portions are redacted with non-redacted content disclosed and that the specific statutory grounds justifying the redaction is provided. If you deny this request in whole or in part, we request you provide a written explanation justifying the denial, including references to the application statutory provisions that support the denial. Finally, should any records be withheld, please also provide the exemption that permits the withholding and provide a list of the records being withheld.

Requesters reserve all rights to appeal available under federal law, including appeal of a denial in whole or part of this request, or a constructive denial. Additionally, we reserve the right to challenge the adequacy of the search for responsive documents, the withholding of any documents, redactions in the responsive records produced, as well as decisions to deny expedited

3 See “ICE Raids Meatpacking Plant in Rural Tennessee; 97 Immigrants Arrested,” Washington Post (Apr. 6, 2018), https://www.washingtonpost.com/local/immigration/ice-raids-meatpacking-plant-in-rural-tennessee-more-than-95-immigrants-arrested/2018/04/06/4955a79a-39a6-11e8-8fd2-49fe3c675a89_story.html?utm_term=.35870ae9c91a; “Families Wait for Answers After ICE Raid in Grainger County,” WBIR (Apr. 6, 2018), <https://www.wbir.com/article/news/local/families-wait-for-answers-after-ice-raid-in-grainger-county/51-536062125>; “Affidavit Details Alleged Worker Exploitation, Tax Fraud at Grainger Plant,” WBIR (Apr. 6, 2018), <https://www.wbir.com/article/news/crime/affidavit-details-alleged-worker-exploitation-tax-fraud-at-grainger-co-plant/51-535625793>; “Large Cash Withdrawals Led Federal Authorities to Grainger County Slaughterhouse,” ABC 6/WATE (Apr. 6, 2018), <http://www.wate.com/news/local-news/97-detained-at-grainger-co-slaughterhouse-following-ice-raid/1104512258>; “IRS, ICE Officials Raid Grainger County Meat Packing Plant,” Citizen Tribune (Apr. 6, 2018), http://www.citizentribune.com/news/local/irs-i-c-e-officials-raid-grainger-county-meat-packing/article_214bbe7e-39ba-11e8-b62c-bb1f2d394701.html; “ICE raids Grainger County meatpacking plant amid charges owners avoided \$2.5M in payroll taxes,” Knoxville News (Apr. 5, 2018), <https://www.knoxnews.com/story/news/crime/2018/04/05/ice-raids-meatpacking-plant-grainger-county/490673002/>; “97 Arrested in Immigration Raid at TN Beef Plant,” Ag Web (Apr. 6, 2018), <https://www.agweb.com/article/97-arrested-in-immigration-raid-at-tn-beef-plant/>; “At least 50 detained in Tennessee Immigration Raid,” Mountain News/WYMT (Apr. 6, 2018), <http://www.wymt.com/content/news/478993163.html>.

⁴ Please note that ICE also granted NILC’s request for a fee waiver.

processing, to withhold any information, or to deny a waiver or limitation of fees.

I certify that the information contained in this request is true and correct to the best of my knowledge. *See* 6 C.F.R. § 5.5(d)(3).

Please contact me should you have any questions regarding this request. You may reach me directly at (404) 521-6700 or at norma.ventura@splcenter.org. Thank you in advance for your time and consideration of this request.

Sincerely,

s/Norma Ventura
Law Fellow